

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-168-C - ORDER NO. 2001-729  
AUGUST 15, 2001

IN RE: Application of CBX One Stop, L.L.C. d/b/a	)	ORDER
CBX Communications for a Certificate of	)	GRANTING
Public Convenience and Necessity to Provide	)	CERTIFICATE FOR
Local Exchange Telecommunications	)	LOCAL SERVICES AND
Services in the State of South Carolina and	)	FOR FLEXIBLE
for Flexible Regulation.	)	REGULATION

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of CBX One Stop, L.L.C. d/b/a CBX Communications ("CBX") or the "Company") requesting a Certificate of Public Convenience and Necessity to provide competitive local exchange telecommunications services in the State of South Carolina. In addition, the Company requests that the Commission regulate its local service in accordance with the principles and procedures established for flexible regulation by Order No. 98-165 in Docket No. 97-467-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2000) and Section 253 of the Telecommunications Act of 1996.

By letter, the Commission's Executive Director instructed CBX to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. CBX complied with this instruction and provided the Commission with proof of publication of the

Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”) on June 25, 2001.

On June 28, 2001, counsel for SCTC filed with the Commission a Stipulation in which CBX stipulated that it would seek authority in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until CBX provided written notice of its intent prior to the date of the intended service. CBX also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. CBX agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to CBX to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on July 31, 2001, at 2:30 p.m., in the Commission’s Hearing Room. The Honorable William Saunders, Chairman, presided. CBX was represented by John J. Pringle, Jr., Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. Vivian B. Dowdy, Auditor, Utilities Department, and James M. McDaniel, Telecommunications Chief, Utilities Department, testified on behalf of the Commission Staff.

Tony Moreland, President and Chief Executive Officer of CBX appeared and testified in support of the Application. Mr. Moreland testified that he has been a business owner in the

Columbia, South Carolina area since 1989. He stated he has also been involved in the startup of several small businesses through the years. Prior to forming his own business, he was employed with Bell Atlantic Corporation in the areas of programming, the assignment of new telephone numbers, the billing of services and ordering of new services. He said he also gained telecommunications experience when he worked for BellSouth Mobility and Midstate Electronics. Mr. Moreland holds a bachelor's degree from Benedict College.

Upon receiving certification from the Commission, CBX seeks to provide, on a resale basis, monthly recurring, prepaid, flat rate local exchange service. CBX will resell local exchange telecommunication services in the service areas of the non-rural local exchange carriers (LECs) in the State of South Carolina. CBX intends to provide residential service and optional features to consumers who have been disconnected by the incumbent local exchange carriers or competitive local exchange carriers for nonpayment, or who have failed to meet such carriers' applicable credit standards. CBX will provide certain local services that are available for resale by the underlying incumbent local exchange carriers (ILECs). CBX will not construct, operate, manage, own or lease any telecommunications facilities for the provision of its local services in the State of South Carolina. According to the record, CBX is a privately-held limited liability company, organized on April 4, 1997 under the laws of the State of South Carolina and headquartered in Columbia, South Carolina. Mr. Moreland testified that his Company currently operates as an agent/payment center for cellular and paging services and for other competitive local exchange carriers.

Mr. Moreland addressed CBX's managerial, financial, and technical ability to provide local exchange telecommunications services in South Carolina. He discussed the experience of

the other key management team members. The record reveals that John Smalls will maintain the Company's computer networking system for all of its payment centers as well as the customer service department computers. In addition, Mr. Smalls will be responsible for troubleshooting and training the customer service department concerning software updates. Mr. Moreland testified that Sylvia Moreland will be in charge of billing and customer service. Ms. Moreland has a bachelor's degree in business management. She also has extensive experience in office management, customer service and data entry. Ms. Moreland also has prior experience in telecommunications with the Bell Atlantic Telephone Company. Her duties there included assigning telephone numbers and answering customer service questions and concerns. Mr. Moreland stated that Joyce Dwyer will work in the area of customer service. Mr. Moreland further testified that he will be the Company's regulatory, financial and customer service contact person.

The record reveals that CBX will bill its customers directly. The Company's name, address and toll-free telephone number will appear on the bill. Additionally, the Company will operate a customer service department. Mr. Moreland testified that the toll-free telephone number is (866) 765-1920. Mr. Moreland testified that the toll-free customer service number is available from 9:00 a.m. until 6:00 p.m. Monday through Saturday and a voice messaging system will answer calls after those hours. He said that CBX will market its services through television advertising. He further testified that customers must execute a Letter of Authorization in order for CBX to become their local service provider.

Regarding the Company's financial ability to offer telecommunications services in South Carolina, Mr. Moreland testified that CBX's financial ability has been evidenced by its financial

statements that were submitted with the Application. He said that CBX has obtained a line of credit with Carolina Telco Credit Union.

Vivian B. Dowdy, Commission Staff witness, testified that the Company filed financial statements for three months ending March 31, 2001, and twelve months ending December 31, 2000. She testified that the income statement for the three months ending March 31, 2001, showed the Company had a profit from operations. The income statement for the twelve months ending December 31, 2000, showed a loss from operations. She said the balance sheet as of March 31, 2001, indicated that cash made up 17% of the company's total assets. The current ratio for the period ending March 31, 2001, was 8.4 which indicated there were enough current assets to meet all of the current liabilities at the date of the balance sheet. The current ratio for the period ending December 31, 2000, was 6.8. Retained earnings and stockholders' equity as of March 31, 2001, and December 31, 2000, were positive. Ms. Dowdy stated it was Commission Staff's opinion that CBX was liquid and in a position to begin operations providing telecommunications services in the State of South Carolina.

The Company requested the Commission's permission to be exempt from any record-keeping rules or regulations that might require the Company to maintain its financial records in conformance with the Uniform System of Accounts. According to the record, CBX currently maintains its book of accounts in accordance with the Generally Accepted Accounting Principles ("GAAP"). Ms. Dowdy further testified as to the Commission's reporting requirements. She said each certified telecommunications company is required to file an annual report and a gross receipt form. She said the annual report is due by the first of April for companies reporting on a calendar basis and ninety days (90) after the fiscal year ending date for all companies with a

fiscal year end. She also testified that the gross receipts form is due October first for calendar and fiscal year ending companies.

In addition, CBX requested that the Commission regulate its local exchange telecommunications services under the flexible regulatory treatment approved by Order No. 98-165 in Docket No. 1997-467-C. Specifically, CBX requested that the Commission adopt for CBX a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. Further, CBX requested that its tariff filings be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filings, in which case such tariff filings would be suspended pending further Order of the Commission, and that any tariff filing will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

Mr. McDaniel presented testimony to the Commission on the findings of the Utilities Department with respect to CBX's Application for a Certificate of Public Convenience and Necessity. According to Mr. McDaniel, CBX seeks authority to resell local exchange telecommunications services within South Carolina and permission to adopt the flexible rate structure for its local exchange service offerings. CBX requested a waiver of S.C.Code Ann. Regs. 103-631 (1976) so that the Company will not be required to publish local exchange directories. According to the record, CBX will make arrangements with the incumbent local exchange carriers whereby the names of CBX's customers will be included in the directories published by the incumbent local exchange carriers. Further, CBX requested waiver of the regulation that requires certificated carriers to file maps showing the Company's certificated and/or exchange service area. He recommended the Commission grant waivers of both

regulations since directory listings and maps showing service areas are generally coordinated through agreements with incumbent local exchange carriers.

In addition, CBX requested that the Commission regulate its local exchange telecommunications services under the flexible regulatory treatment approved by Order No. 98-165 in Docket No. 1997-467-C. Specifically, CBX requested that the Commission adopt for CBX a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. Further, CBX requested that its tariff filings be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filings, in which case such tariff filings would be suspended pending further Order of the Commission, and that any tariff filing will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

The testimony reveals CBX's presence in South Carolina as a telecommunications service provider will have a positive effect on the public interest. Upon receiving certification from the Commission, Mr. Moreland testified CBX will abide by and comply with the Commission's rules and regulations and Commission Orders in its operations in South Carolina. Further, the testimony reveals CBX has never had an application for a certificate of public convenience and necessity denied. Further, he testified CBX will comply with South Carolina laws and with all applicable rules and regulations of the Commission. He agreed to make all tariff changes as suggested by the Commission Staff. He agreed to file a copy of CBX's Bill Form with the final tariff as required by this Commission's regulations. Finally, Mr. Moreland testified CBX had not provided any intrastate telecommunications services within the State of South Carolina.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. CBX is organized as a limited liability company under the laws of the State of South Carolina and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina.
2. CBX wishes to provide local exchange services within the State of South Carolina.
3. The Commission finds that CBX possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2000).
4. The Commission finds that CBX's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 2000).
5. The Commission finds that CBX will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 2000).
6. The Commission finds that CBX will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 2000).
7. The Commission finds that the provision of local exchange service by CBX "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 2000).



**CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to CBX to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between CBX and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, CBX may not provide any local service to a customer located in a rural incumbent LEC's service area, unless or until CBX provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from CBX that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by CBX in a rural

incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. CBX shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. CBX's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C.

Specifically, the Commission adopts for CBX's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, CBX's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. CBX shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. CBX shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. CBX shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, CBX shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The form the Company shall use to file annual financial information with the Commission can be found at the Commission's web site at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Annual Report for Competitive Local Exchange Carriers". Additionally, pursuant to the Commission's regulations, the Company shall file a CLEC Service Quality Quarterly Report with the Commission. The proper form for this report is Form #110 and can be found at [www.psc.state.sc.us/forms/default.htm](http://www.psc.state.sc.us/forms/default.htm).

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs CBX to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services

within South Carolina, CBX shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

CBX shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced. CBX shall also file with the Commission a copy of its general Bill Form as required by S.C. Code Regs. 103-612.2 and 103-622 (1976 and Supp. 2000).

8. CBX shall file annually the Intrastate State Universal Service Fund (USF) worksheet due August 15 for calendar and fiscal year ending companies.

9. CBX requested waivers from certain Commission regulations and requirements. Specifically, CBX requested waivers from (1) the requirement found in Rule 103-631 to publish and distribute local exchange directories and (2) the requirement found in Rule 103-612.2.3 regarding the filing of operating area maps. The Company also requested permission to exempt it

from any requirement to maintain books and records in compliance with the USOA. The Commission grants the request for waiver from the requirement to publish directories as CBX has indicated that it will contract with the incumbent local exchange company to include the customers of CBX in the directory listing of the ILEC directory. The Commission also grants a waiver of Regulation 103-612.2.3 which requires a company to file a map or maps showing its certificated area and/or exchange service area(s). Further, the Commission grants CBX's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA. CBX is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

*filed 6/28/01*

Docket No. 2001-168-C

Re: Application of CBX One Stop, LLC d/b/a     )  
      CBX Communications for a Certificate of     )  
      Public Convenience and Necessity to Provide     )  
      Local Exchange Telecommunications Services     )  
      in the State of South Carolina             )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and CBX One Stop, LLC d/b/a CBX Communications ("CBX") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose CBX's Application. SCTC and CBX stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to CBX, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. CBX stipulates and agrees that any Certificate which may be granted will authorize CBX to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. CBX stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. CBX stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until CBX provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, CBX acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. CBX stipulates and agrees that, if CBX gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then CBX will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. CBX acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

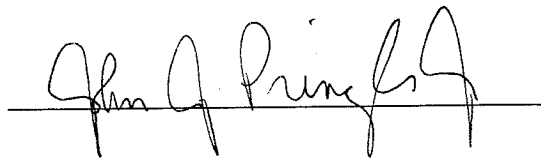
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and CBX, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. CBX agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

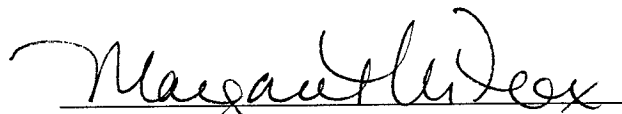
9. CBX Communications hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 27<sup>th</sup> day of June,  
2001.

CBX One Stop, LLC d/b/a  
CBX Communications:

A handwritten signature in cursive script, appearing to read "John A. Pringle", written over a horizontal line.

South Carolina Telephone Coalition:

A handwritten signature in cursive script, appearing to read "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.  
Margaret M. Fox  
McNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
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Attorneys for the South Carolina Telephone  
Coalition



## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

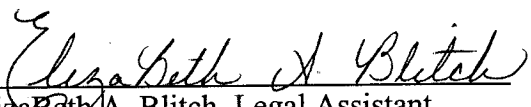
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      Local Exchange Telecommunications Services     )  
      in the State of South Carolina             )  
\_\_\_\_\_ )

**CERTIFICATE OF  
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

John J. Pringle, Esquire  
Beach Law Firm, P.A.  
Post Office Box 11547  
Columbia, South Carolina 29211-1547

  
ElizaBeth A. Blitch, Legal Assistant  
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June 28, 2001

Columbia, South Carolina